

**OPINION
59-80**

June 19, 1959 (OPINION)

DOMESTIC RELATIONS

RE: Marriage Contract - License - Nonresidents

This is in reply to your letter of May 28, 1959, concerning the issuance of marriage licenses. You state that a couple with a North Dakota marriage license. The lady resides in Oregon and the gentleman resides in Illinois. You further state that you believe they plan to secure an Oregon license.

Section 14-0319 of the North Dakota Revised Code of 1943 provides as follows:

"LICENSE ISSUED TO ALL WHO COMPLY WITH LAW. If a county judge is satisfied that there is no legal impediment to the marriage and that the applicants have complied with the provisions of this chapter, or in the case where both of the contracting parties are residents of another state, if such parties present a valid marriage license regularly issued not more than sixty days prior thereto by the duly authorized officials of their state, then the county judge shall issue and sign a marriage license and affix his seal thereto." (emphasis supplied)

Under the provisions of the above statute if the parties wishing to secure a marriage license are residents of another state and present a license regularly issued not more than sixty days prior to the date of application in North Dakota by the duly authorized officials in their state, then the county judge must issue them a North Dakota marriage license. In this instance the compliance with the other laws of this state concerning the affidavit is not necessary since the above quoted statute uses the words "have complied or * * * are residents of another state." In other words, the applicants must show they have complied with the requirements for marriage in this state if they are residents of this state or produce a valid marriage license from their own state if they are nonresidents.

Section 14-0319 of the North Dakota Revised Code of 1943 did not contain the provision with respect to nonresidents. This provision was added by the 1957 Legislature. It is the obvious intent of the legislature to place the burden of determining whether the applicants have complied with the laws of the state of their residence upon the office in such state which issues the marriage license. Each state must enact and administer its own laws. If the applicants have shown compliance with the laws in their state by producing a validly issued license, then North Dakota will honor that license and permit the nonresidents to be married in this state. The license from the other state is the evidence that such state has given permission to the parties concerned to be married.

While our statutes make no requirement concerning the sending of a report to the state which issued the initial license to the

nonresidents, it would appear to be the best procedure to send such a report to the office issuing such a license so that a record may be filed in that state.

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